



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

July 30, 2013

CERTIFIED MAIL

Mr. Tom Carpenter
Hanford Challenge
219 1st Avenue South
Suite 310
Seattle, Washington 98104

Dear Mr. Carpenter:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2013-00964)

This letter is an interim response to your Freedom of Information Act (FOIA) request that you sent to this office requesting records relating in connection with the AY-102 double-shell tank failure. Each item of your request is re-stated below:

1. "Any and all records reflecting correspondence (including letters and emails) between the Department of Energy offices at Hanford (DOE ORP or RL) related to the AY-102 tank and the State of Washington, including any agency thereof and/or the Office of the Governor, any committee, subcommittee, or member of Congress, any other DOE office external to Hanford, including but not limited to Headquarters' offices, including the Office of the Secretary of Energy, EM, HSS, General Counsel, or other DOE office, and any other external entity if the correspondence and/or email relates to or is generated in connection with the AY-102 waste issue."
2. "Any and all records reflecting notifications, alerts, or reports regarding the discovery of the possibility of a leak within AY-102, including but not limited to any notifications made to and/or between the Washington State Departments of Ecology and/or Health, the Washington State Governor's Office, the Secretary of Energy and/or any other agency or entity to which notifications were provided."
3. "Any and all videos of the AY-102 tank annulus dated from September 2011 to the date of this request."
4. "Any and all historical records relating to the history and contents of Tank AY102, not available to the public on the internet or in the public reading room."

Additionally you stated “this request is not intended to cover any documents that are available to the public in the public reading room or on the internet.”

In response to item 2, the enclosed documents have been located. Within the documents, this office has made certain deletions pursuant to Exemption 5 of the FOIA. Exemption 5 protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. 5 U.S.C. § 552(b)(5). This Exemption protects those documents normally privileged in the civil discovery process, such as pre-decisional, deliberative process material. The deliberative process protects advice, recommendations, and opinions that are pre-decisional and part of the decision-making process of the Government. This privilege protects not merely the documents, but also the integrity of the deliberative process itself where the exposure of that process, or an element thereof, would result in harm. The material being withheld as deliberative includes exchanges between government employees regarding decisions not yet made. It is reasonably foreseeable that release of such information could chill open and frank discussions, limit government personnel’s range of options to consider, and thus detract from the quality of Agency decisions.

In addition, the deleted material summarized communications between DOE attorneys and their clients and was based upon expressed opinions on legal and policy matters. We have determined the information is protected from disclosure pursuant to the attorney-client and deliberative process privileges. Material determined to be exempt from mandatory disclosure may be released however, if disclosure is determined to be in the public interest. We have determined the public interest is best served by non-disclosure because disclosure of this information would harm the government by tending to inhibit free pre-decisional discussion of policy issues as well as candid attorney-client discussion of legal matters. For the above reasons, the information is being withheld.

All releasable information in the documents has been segregated and is being provided to you. The undersigned individual is responsible for this determination. You have the right to appeal to the Office of Hearings and Appeals, as provided in 10 CFR 1004.8, for any information denied to you in this letter. Any such appeal shall be made in writing to the following address: Director, Office of Hearings and Appeals (HG-1), U.S. Department of Energy, L’Enfant Plaza Building, 1000 Independence Avenue SW, Washington, D.C. 20585-1615, and shall be filed within 30 days after receipt of this letter. Should you choose to appeal, please provide this office with a copy of your letter.

Mr. Thomas Carpenter

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We continue to review documents responsive your request and will notify you when our review is complete. If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

-Original Signed By

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosures